

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

BIGFOOT ON THE STRIP, LLC,

Plaintiff,

vs.

RANDY WINCHESTER; and  
EMILY WINCHESTER,

Defendants.

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Case № 6:18-CV-03155

**MOTION TO QUASH SUBPOENA**

COMES NOW, Nick Patton, by and through his counsel, Jennifer R. Johnson of Hinkle Law Firm, LLC, and pursuant to Rule 45(d)(3)(A)(iv), hereby moves to quash the subpoena served on him on or about May 6, 2019, for appearance at a deposition on May 9, 2019. In support of the Motion to Quash, Mr. Patton submits that due to his current medical condition including his current medication regime which involves substantial narcotic pain medication, it imposes an undue burden upon him to appear and give testimony under oath at the time and date specified. In support thereof, Mr. Patton states:

1. In February 2019, Mr. Patton was hospitalized for four days for acute pancreatitis, ulcerative colitis, as well as gallbladder disease, and during his stay required the removal of his gallbladder to treat one or more of these conditions.

2. Mr. Patton's recovery from the cholecystectomy was then complicated by the development of a umbilical hernia, which required surgical repair.

3. Mr. Patton underwent surgical repair of his umbilical hernia on April 16, 2019, and his recovery therefrom has been complicated by significant pain complaints resulting in two emergency room visits, including one visit on April 28, 2019 and one visit on May 3, 2019, both due to significant pain and wound status concerns.

4. Mr. Patton remains off work due to his medical condition, and is currently taking Norco and Valium in an attempt to control his severe pain complaints.

5. Mr. Patton is willing to submit his medical records for in camera review, but would prefer not to have his medical condition made part of the record in this action. If the Court requires that his medical records be filed to document the facts stated herein, MR. Patton will file under seal, subject to the Protective Order, and would request the Court permit the documents to be further designated for attorneys-eyes-only.

6. In the event the Court does not find it appropriate to quash the deposition based on Mr. Patton's medical condition, Mr. Patton requests his deposition be continued until such a time that he is no longer required to take narcotic medication to control his pain.

7. In addition to appearing at a deposition, the subpoena sought the production of documents. Mr. Patton has reviewed his emails and text messages and has no documents responsive to the document request contained in the subpoena.

8. To the extent the Court orders Nick Patton to appear at this time for his deposition, Mr. Patton respectfully requests that the subpoena be modified to allow him to appear in the evening, when he can secure a ride to counsel's office and is not required to drive the distance required for his deposition while under the influence of narcotics. He also requests the deposition be held at his counsel's office, Hinkle Law Firm, in Overland Park, Kansas.

9. Nick Patton further requests that if his appearance is required at this time, that the time and location for his deposition be modified to be held at his attorney's office, Hinkle Law Firm, and that it be scheduled at a time when his attorney is available. Neither Jennifer Johnson or Michelle Stewart are available to produce Mr. Patton at the time specified in the subpoena; but Jennifer Johnson is available the evening of May 9<sup>th</sup>, beginning at 6:00 p.m., or, if the Court orders a daytime deposition, is available on May 10<sup>th</sup>, between 12:00 p.m. and 4:00 p.m.

WHEREFORE, Nick Patton hereby moves the Court for relief as to the subpoena issued herein, specifically that the subpoena be quashed, or, that it be modified so as not to require Mr. Patton to submit for deposition testimony until his recovery is complete, when pain and his medications will not impact his ability to understand and give answers in the depositions.

Respectfully submitted,

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By: /s/ Jennifer R. Johnson  
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ATTORNEYS FOR DEFENDANTS

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 7th day of May, 2019, the foregoing *Motion to Quash* was filed electronically with the Clerk of the US District Court for the Western District of Missouri; and a service copy was served electronically via email only on the following:

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